

BEFORE THE REAL ESTATE COMMISSION  
STATE OF NEVADA

FILED

FEB 06 2017

REAL ESTATE COMMISSION  
BY *[Signature]*

SHARATH CHANDRA, Administrator,  
REAL ESTATE DIVISION,  
DEPARTMENT OF BUSINESS &  
INDUSTRY, STATE OF NEVADA,

Case No. 2016-646

Petitioner,

vs.

KYLE KRCH,

Respondent.

SHARATH CHANDRA, Administrator,  
REAL ESTATE DIVISION,  
DEPARTMENT OF BUSINESS &  
INDUSTRY, STATE OF NEVADA,

Case No. 2016-1708

Petitioner,

vs.

JASON JAIRAM,

Respondent.

OPPOSITION TO JOINT MOTION TO DISMISS

The Real Estate Division of The Department of Business And Industry of The State of Nevada ("Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Peter K. Keegan, Deputy Attorney General, hereby responds to KYLE KRCH and JASON JAIRAM ("RESPONDENTS") *Joint Motion to Dismiss*.

MEMORANDUM OF POINTS AND AUTHORITIES

**1. New Evidence, Previously Unavailable Bars Dismissal on Either Claim Preclusion or Issue Preclusion Grounds.**

The instant Complaints in Case No's 2016-646 and 2016-1708, filed by the Division against RESPONDENTS, are based upon newly discovered evidence received via subpoena from the financial institutions involved in the short-sale transactions at issue. Not only are

the claims different in nature from those claims litigated in *Decker v. Krch et al.*, Case No. REN 14-05-07-047, the basis for the investigation and subpoenas which yielded the evidence for the instant Complaints only arose as a result of the testimony given by RESPONDENT KRCH during the hearing for Case No. REN 14-05-07-047. Specifically, during the May 5, 2015, Hearing, RESPONDENT KRCH testified on redirect examination by his attorney that he was not aware of any statutes or regulations which detail in any way that an agent or broker owes any sort of duty, whatsoever, to a seller's lender. May 5, 2015, Hearing Audio Recording of Case No. REN 14-05-07-047 at 3:48:00. As a result of this testimony, the Division's investigations unit subpoenaed the banking records from the financial institutions involved the short-sale transactions on February 12, 2016. Exhibit 1, Subpoena Documents, Bates Stamp Pages 000068-000090. This newly discovered evidence is the basis for the instant Complaints against RESPONDENTS, was unavailable to be presented or litigated during the May 5, 2015, Hearing, and was not part of the final judgment reached therein. Because underlying evidence supporting the claims in the instant Complaints against RESPONDENTS is newly discovered evidence, no part of Case No. REN 14-05-07-047 is being relitigated; therefore, neither claim preclusion nor issue preclusion are inapplicable defenses here.

"In order for either doctrine to apply to bar the relitigation of a claim or issue, all the elements of the particular doctrine must be met. For claim preclusion to apply, (1) the same parties or their privies must be involved in both cases; (2) a valid final judgment must be entered in the first case; and, (3) the subsequent action must be based on the same claims or any part of them that were or could have been brought in the first case. Similarly, for issue preclusion to apply, (1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; ... (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation; and, (4) the issue [must have been] actually and necessarily litigated.

1 *Tom v. Innovative Home Systems, LLC*, 368 P.3d 1219, 1225, 132 Nev. Adv. Op. 15 (NV. Ct.  
2 App. 2015)(internal citations and quotations omitted).

3 **2. RESPONDENTS Fraudulent Misrepresentations to Financial Institutions**  
4 **Breached and Violated NRS 645 and NAC 645.**

5 RESPONDENTS argument that no fiduciary duty was breached because none was  
6 owed is unconvincing. RESPONDENTS misrepresented, under penalty of perjury, several  
7 assurances regarding the underlying short sale transactions which were expressly relied  
8 upon by the financial institutions involved therein. Exhibit 2, RESPONDENTS'  
9 Misrepresentations to Financial Institutions, Bates Stamped 000013-000016a; 000033-  
10 000037; 000058-000062. Whether RESPONDENTS' owed a fiduciary duty or not does not  
11 absolve them from making fraudulent misrepresentations as Nevada Real Estate  
12 Licensees.

13  
14 **3. RESPONDENTS Void For Vagueness Argument is Misguided and The**  
15 **Division's Complaint Is Pled with Sufficient Particularity.**

16 RESPONDENTS are charged with violating Nevada Revised Statutes ("NRS")  
17 645.633(1)(i) pursuant to Nevada Administrative Code ("NAC") 645.605(1) for allegedly  
18 making written fraudulently misrepresentations under the penalty of perjury. The Void for  
19 Vagueness doctrine only invalidates those convictions or punishments which fail on due  
20 process grounds "if the statute or regulation under which they are obtained fails to provide  
21 a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that  
22 it authorizes or encourages discriminatory enforcement."<sup>1</sup> Under no stretch of the  
23 imagination could a misrepresentation concerning a real estate transaction, signed under  
24 the penalty of perjury, be misconstrued as an action permitted by a Nevada Licensed Real  
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<sup>1</sup> *F.C.C. v. Fox Television Stations, Inc.*, 132 S.Ct. 2307, 2310, (2012); *Sheriff of Washoe County v. Martin*, 99 Nev. 336, 339, 662 P.2d 634, 637 (1983).

1 Estate Broker or Agent, let alone under standards set forth in NRS 645.633(1)(i) or NAC  
2 645.605(1).

3 With respect to the RESPONDENTS' argument concerning the required elements to  
4 prove fraud claims, a complainant is not required to prove claims at the pleading stage, but  
5 rather state claims in accordance with applicable pleading standards.<sup>2</sup>

6  
7 NRS 233B.121, provides, in pertinent part:

- 8 1. In a contested case, all parties must be afforded an  
9 opportunity for hearing after reasonable notice.
- 10 2. The notice must include:
  - 11 (a) A statement of the time, place and nature of the  
12 hearing.
  - 13 (b) A statement of the legal authority and jurisdiction  
14 under which the hearing is to be held.
  - 15 (c) A reference to the particular sections of the statutes  
16 and regulations involved.
  - 17 (d) A short and plain statement of the matters asserted.

18 NRCP 8(a) states in pertinent part, "a pleading which sets forth a claim for relief . .  
19 . shall contain (1) a short and plain statement of the claim showing that the pleader is  
20 entitled to relief, and (2) a demand for judgment for the relief the pleader seeks."

21 NRCP 9(b) states in pertinent part, "[i]n all averments of fraud or mistake, the  
22 circumstances constituting fraud or mistake shall be stated with particularity. Malice,  
23 intent, knowledge, and other condition of mind of a person may be averred generally."

24 Here, the Division's Complaints comply with both Nevada Rule of Civil Procedure  
25 ("NRCP") 8(a) and NRCP 9(b), as well as NRS 233B.121. RESPONDENTS contention that  
26 the Division's Complaints against RESPONDENTS fail to articulate any concrete and  
27 unambiguous prohibited conduct is erroneous. The Division's Complaints comply with the

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<sup>2</sup> See *Aschcroft v. Iqbal*, 556 U.S. 662 (2009); see also *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) ("to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.")


1 applicable pleading standards by affording RESPONDENTS adequate notice to defend  
2 against the charges.<sup>3</sup>

3 CONCLUSION

4 The Division respectfully request the Real Estate Commission deny RESPONDENTS'  
5 *Joint Motion to Dismiss* and proceed with a hearing on the merits in both Case No. 2016-  
6 646 and 2016-1708.

7 DATED this 30<sup>th</sup> day of January, 2017.

8 ADAM PAUL LAXALT  
9 Attorney General

10  
11 By:   
12 PETER K. KEEGAN  
13 Deputy Attorney General  
14 100 North Carson Street  
15 Carson City, Nevada 89701  
16 Telephone: (775) 684-1153  
17 Attorneys for Real Estate Division

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28 <sup>3</sup> Complaint, *Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry, State of Nevada v. Kyle Krch*, pp. 1-11; Complaint, *Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry, State of Nevada v. Jason Jairam*, pp. 1-8.

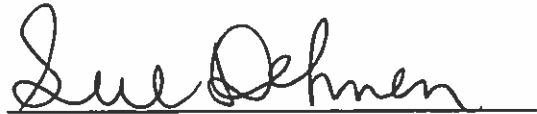
CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 30<sup>th</sup> day of January, 2017, I served via U.S. Mail, postage prepaid, at Carson City, Nevada, a copy of the foregoing, *Opposition to Joint Motion to Dismiss*, as follows:

James M. Walsh, Esq.  
9468 Double R Boulevard Suite A  
Reno, Nevada 89531

Sharath Chandra, Administrator  
State of Nevada Department of Business &  
Industry  
Real Estate Division  
2501 East Sahara Avenue  
Las Vegas, Nevada 89104-4137

Real Estate Division State of Nevada  
1830 East College Parkway, #120  
Carson City, Nevada 89706  
Attn: Legal Administrative Officer

  
Sue Dehnen, an employee of the  
Office of the Attorney General

# EXHIBIT 1

# EXHIBIT 1

## SUBPOENA ORDER FORM

|                               |   |
|-------------------------------|---|
| DATE OF ORDER REQUEST         | February 12, 2016   |
| REQUESTED BY                  | Linda L Chavez  |
| CASE NUMBER                   | 2016-646, 2016-647  |
| RELAVENT STATUTES/REGULATIONS | NRS 645.610, NRS 645.700, NRS 645.720   |
| REASON FOR ORDER              | Provide copy of Short Sale Purchase Contract Addendum and copy of Short Sale Real Estate Licensee Certification document(s) and copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing your home via Short Sale (signed by seller) for 665 Wall Canyon Dr. Sun Valley NV COE 12/28/2012 Seller Geraldine Malone Loan # 22728752 as submitted by Krch Realty Reno, NV. |
| NAME OF RESPONDENT/ADDRESS    | Bank of America, N.A.<br>Legal Order Processing<br>P.O. BOX 15047<br>Wilmington, DE 19850-5047  |
| TELEPHONE NUMBER              |   |

OK JKA  
02/12/16

000068



BRIAN SANDOVAL  
Governor

STATE OF NEVADA



BRUCE H. BRESLOW  
Director  
JOSEPH (JD) DECKER  
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
[www.red.nv.gov](http://www.red.nv.gov)

February 18, 2016

Bank of America, NA  
Legal Order Processing  
PO Box 15047  
Wilmington, DE 19850-5047

Re: Subpoena to Obtain Records – Kyle Krch, Krch Realty Reno, Nevada  
Case# 2016-646 & 2016-647

Dear Sir or Madam:

Enclosed please find a Subpoena to Obtain Records for Bank of America regarding the above mentioned entities. Please note that all records are requested to be produced in an electronic format.

We would also request that prior to the production of documents that we be provided an estimate of the costs for such production, along with a rate sheet of the bank's usual and customary fees if possible. Your assistance with this would avoid any delay in the payment of your costs.

If you have any questions regarding the subpoena or the records requested, please do not hesitate to call me at (702) 486-4036 or Linda Chavez at (702) 486-4518. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Teralyn Thompson".

Teralyn Thompson  
Administration Section Manager  
Nevada Real Estate Division

Enclosures as indicated

000069

**Certificate of Service  
(NRS 645.680)**

I certify that on the 18th day of February, 2016, I deposited a copy of the foregoing:

**SUBPOENA TO OBTAIN RECORDS (CASE# 2016-646 & 2016-647)**

in the United States Mail, postage pre-paid, in Las Vegas, Nevada, through the State of Nevada mailroom, by first class mail addressed to the following respondents at their last known address as follows:

**Certified No. 7013 1090 0000 1675 1425**

Bank of America, NA  
Legal Order Processing  
PO Box 15047  
Wilmington, DE. 19850-5047



**Teralyn Thompson**  
**Administration Section Manager**

000070

BEFORE THE NEVADA REAL ESTATE COMMISSION  
STATE OF NEVADA

JOSEPH DECKER, Administrator  
REAL ESTATE DIVISION,  
DEPT. OF BUSINESS & INDUSTRY,  
RE: Request for records pursuant to  
NRS 645.610, NRS 645.700 & NRS 645.720

Petitioner,

BANK OF AMERICA, N. A.

Respondent.

SUBPOENA TO  
OBTAIN RECORDS

CASE NOS: 2016-646 AND 2016-647

TO: Bank of America, N. A.  
Legal Order Processing  
P.O. BOX 15047  
Wilmington, DE 19850-5047

SUBPOENA TO OBTAIN RECORDS

THE NEVADA REAL ESTATE COMMISSION SENDS GREETINGS TO:

Bank of America, N. A.  
Legal Order Processing  
P.O. BOX 15047  
Wilmington, DE 19850-5047

Under the provisions of NRS 645.610 the Administrator of the Nevada Real Estate Division may investigate the actions of any real estate broker, broker-salesperson, salesperson, owner-developer or any person who acts in any such capacity within this State

Under the provisions of NRS 645.720 the State of Nevada, Department of Business & Industry, Real Estate Division, has requested that the Nevada Real Estate Commission issue this subpoena in order to compel the production of books, records and other papers.

**YOU ARE HEREBY COMMANDED TO:** Provide all pages of documents listed  
below:

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1 //

2 **Documents Requested:**

3 1) A copy of Short Sale Purchase Contract Addendum, signed by seller, for address 665 Wall  
4 Canyon Drive, Sun City, Nevada. COE: 12/28/2012. Seller: Geraldine Malone. Loan #  
5 22728752 as submitted by Krch Realty Reno, Nevada;

6 2) A copy of Short Sale Real Estate Licensee Certification document(s), signed by seller, for  
7 address 665 Wall Canyon Drive, Sun City, Nevada. COE: 12/28/2012. Seller: Geraldine  
8 Malone. Loan # 22728752 as submitted by Krch Realty Reno, Nevada; and,

9 3) A copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing Your  
10 Home Via Short Sale, signed by seller, for address 665 Wall Canyon Drive, Sun City, Nevada.  
11 COE: 12/28/2012. Seller: Geraldine Malone. Loan # 22728752 as submitted by Krch Realty  
12 Reno, Nevada.

13  
14 Your failure to comply with this subpoena within twenty (20) days after the date of service  
15 could result in sanctions which may be imposed by a District Court for the State of Nevada under  
16 the provisions of NRS 645.720.

17 EXECUTED this 18 day of Feb, 2016.

18  
19 NEVADA REAL ESTATE COMMISSION

20  
21 By: [Signature]  
22 Commissioner

23 **Issued at the request of:**

24 Linda Chavez,  
25 Compliance Audit Investigator  
26 State of Nevada  
27 Department of Business & Industry  
28 Real Estate Division  
2501 E. Sahara Avenue, Suite 300  
Las Vegas, Nevada 89104  
Phone No. (702) 486-4518

000072

**SUBPOENA  
ORDER FORM**

|                               |  |
|-------------------------------|--|
| DATE OF ORDER REQUEST         | February 12, 2016  |
| REQUESTED BY                  | Linda L Chavez   |
| CASE NUMBER                   | 2016-646, 2016-647   |
| RELAVENT STATUTES/REGULATIONS | NRS 645.610, NRS 645.700, NRS 645.720  |
| REASON FOR ORDER              | Provide copy of Affidavit of "Arm's Length Transaction" document and copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing your home via Short Sale (signed by seller) for 2745 D'Arcy Court Sparks, NV 89436 COE 7/30/2013 Seller Deborine Dolan, Loan #1796086726 as submitted by Krch Realty Reno, NV. |
| NAME OF RESPONDENT/ADDRESS    | JP Morgan Chase<br>ATTN: Subpoena Processing<br>7610 W Washington Street<br>Floor 1<br>Indianapolis, IN 46231  |
| TELEPHONE NUMBER              |  |

Ok JRA 02/12/16

000073

BRIAN SANDOVAL  
Governor

STATE OF NEVADA



BRUCE H. BRESLOW  
Director

JOSEPH (JD) DECKER  
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

[www.red.nv.gov](http://www.red.nv.gov)

February 18, 2016

JP Morgan Chase Bank  
Attn: Subpoena Processing Center  
7610 W. Washington  
Indianapolis, IN 46231

Re: Subpoena to Obtain Records - Kyle Krch, Krch Realty Reno, Nevada  
Case# 2016-646 & 2016-647

Dear Sir or Madam:

Enclosed please find a Subpoena to Obtain Records for JP Morgan Chase Bank regarding the above mentioned entities. Please note that all records are requested to be produced in an electronic format.

We would also request that prior to the production of documents that we be provided an estimate of the costs for such production, along with a rate sheet of the bank's usual and customary fees if possible. Your assistance with this would avoid any delay in the payment of your costs.

If you have any questions regarding the subpoena or the records requested, please do not hesitate to call me at (702) 486-4036 or Linda Chavez at (702) 486-4518. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Teralyn Thompson", with a large, sweeping flourish extending to the right.

Teralyn Thompson  
Administration Section Manager  
Nevada Real Estate Division

Enclosures as indicated

000074

**Certificate of Service  
(NRS 645.680)**

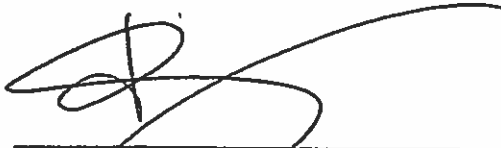
I certify that on the 18th day of February, 2016, I deposited a copy of the foregoing:

**SUBPOENA TO OBTAIN RECORDS (CASE# 2016-646 & 2016-647)**

in the United States Mail, postage pre-paid, in Las Vegas, Nevada, through the State of Nevada mailroom, by first class mail addressed to the following respondents at their last known address as follows:

**Certified No. 7013 1090 0000 1675 1449**

JP Morgan Chase Bank  
Attn: Subpoena Processing Center  
7610 W. Washington  
Indianapolis, IN. 46231

---

**Teralyn Thompson**  
**Administration Section Manager**

000075

BEFORE THE NEVADA REAL ESTATE COMMISSION  
STATE OF NEVADA

JOSEPH DECKER, Administrator  
REAL ESTATE DIVISION,  
DEPT. OF BUSINESS & INDUSTRY,  
In Re: Request for records pursuant to  
NRS 645.610, NRS 645.700 & NRS 645.720

Petitioner,

JP MORGAN CHASE,  
Respondent.

**SUBPOENA TO  
OBTAIN RECORDS**

**CASE NOS: 2016-646 & 2016-647**

TO: JP MORGAN CHASE BANK  
ATTN: Subpoena Processing Center  
7610 W. Washington  
Indianapolis, IN 46231

**SUBPOENA TO OBTAIN RECORDS**

THE NEVADA REAL ESTATE COMMISSION SENDS GREETINGS TO:

JP MORGAN CHASE BANK  
ATTN: Subpoena Processing Center  
7610 W. Washington  
Indianapolis, IN 46231

Under the provisions of NRS 645.610 the Administrator of the Nevada Real Estate Division may investigate the actions of any real estate broker, broker-salesperson, salesperson, owner-developer or any person who acts in any such capacity within this State

Under the provisions of NRS 645.720 the State of Nevada, Department of Business & Industry, Real Estate Division, has requested that the Nevada Real Estate Commission issue this subpoena in order to compel the production of books, records and other papers.

**YOU ARE HEREBY COMMANDED TO:** Provide all pages of documents listed  
below:

///

///

///

000076



1 **Documents Requested:**

2 1) A copy of Affidavit of "Arm's Length Transaction" document, signed by seller, for address  
3 2745 D'Arcy Court, Sparks, Nevada 89436. COE: 7-30-2013 Seller: Deborine Dolan. Loan #  
4 1796086726 as submitted by Krch Realty Reno, Nevada; and,

5 2) A copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing Your  
6 Home Via Short Sale, signed by the seller, for address 2745 D'Arcy Court, Sparks, Nevada  
7 89436. COE: 7-30-2013 Seller: Deborine Dolan. Loan # 1796086726 as submitted by Krch  
8 Realty Reno, Nevada.

9 Your failure to comply with this subpoena within twenty (20) days after the date of service could  
10 result in sanctions which may be imposed by a District Court for the State of Nevada under the  
11 provisions of NRS 645.720.

12 EXECUTED this 18 day of Feb., 2016.

14 **NEVADA REAL ESTATE COMMISSION**

15 By:   
16 Commissioner

19 **Issued at the request of:**

20 Linda Chavez,  
21 Compliance Audit Investigator  
22 State of Nevada  
23 Department of Business & Industry  
24 Real Estate Division  
25 2501 E. Sahara Avenue, Suite 300  
26 Las Vegas, Nevada 89104  
27 Phone No. (702) 486-4518  
28

**SUBPOENA  
ORDER FORM**

|                               |   |
|-------------------------------|---|
| DATE OF ORDER REQUEST         | February 12, 2016   |
| REQUESTED BY                  | Linda L Chavez  |
| CASE NUMBER                   | 2016-646, 2016-647  |
| RELAVENT STATUTES/REGULATIONS | NRS 645.610, NRS 645.700, NRS 645.720   |
| REASON FOR ORDER              | Provide copy of Short Sale Affidavit document and copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing your home via Short Sale (signed by seller) for 11480 Cervino Drive Reno, NV 89521 COE 12/27/2013 Loan # 0050478122 Seller Stephanie Tobey as submitted by Krch Realty Reno, NV. |
| NAME OF RESPONDENT/ADDRESS    | Attention: Tom Frederick<br>M & T Bank<br>Cash Processing<br>One Fountain Plaza<br>Buffalo, NY 14203  |
| TELEPHONE NUMBER              |   |

OK JRH 02/12/16

000078

BRIAN SANDOVAL  
*Governor*

STATE OF NEVADA



BRUCE H. BRESLOW  
*Director*

JOSEPH (JD) DECKER  
*Administrator*

DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

[www.red.nv.gov](http://www.red.nv.gov)

February 18, 2016

M&T Bank  
Legal Document Processing  
PO Box 844  
Buffalo, NY. 14240

Re: Subpoena to Obtain Records - Kyle Krch, Krch Realty Reno, Nevada  
Case# 2016-646 & 2016-647

Dear Sir or Madam:

Enclosed please find a Subpoena to Obtain Records for M&T Bank regarding the above mentioned entities. Please note that all records are requested to be produced in an electronic format.

We would also request that prior to the production of documents that we be provided an estimate of the costs for such production, along with a rate sheet of the bank's usual and customary fees if possible. Your assistance with this would avoid any delay in the payment of your costs.

If you have any questions regarding the subpoena or the records requested, please do not hesitate to call me at (702) 486-4036 or Linda Chavez at (702) 486-4518. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "T. Thompson", written over a large, stylized circular flourish.

Teralyn Thompson  
Administration Section Manager  
Nevada Real Estate Division

Enclosures as indicated

000079

**Certificate of Service  
(NRS 645.680)**

I certify that on the 18th day of February, 2016, I deposited a copy of the foregoing:

**SUBPOENA TO OBTAIN RECORDS (CASE# 2016-646 & 2016-647)**

in the United States Mail, postage pre-paid, in Las Vegas, Nevada, through the State of Nevada mailroom, by first class mail addressed to the following respondents at their last known address as follows:

**Certified No. 7013 1090 0000 1675 1432**

**M&T Bank  
Legal Document Processing  
PO Box 844  
Buffalo, NY. 14240**



**Terilyn Thompson  
Administration Section Manager**

000080

BEFORE THE NEVADA REAL ESTATE COMMISSION  
STATE OF NEVADA

JOSEPH DECKER, Administrator  
REAL ESTATE DIVISION,  
DEPT. OF BUSINESS & INDUSTRY,  
In Re: Request for records pursuant to  
NRS 645.610, NRS 645.700 & NRS 645.720

Petitioner,

M & T Bank,  
Respondent.

SUBPOENA TO  
OBTAIN RECORDS

CASE NOS: 2016-646 & 2016-647

TO: M & T Bank  
Legal Document Processing  
P.O. Box 844  
Buffalo, NY. 14240

SUBPOENA TO OBTAIN RECORDS

THE NEVADA REAL ESTATE COMMISSION SENDS GREETINGS TO:

M & T Bank  
Legal Document Processing  
P.O. Box 844  
Buffalo, NY. 14240

Under the provisions of NRS 645.610 the Administrator of the Nevada Real Estate Division may investigate the actions of any real estate broker, broker-salesperson, salesperson, owner-developer or any person who acts in any such capacity within this State

Under the provisions of NRS 645.720 the State of Nevada, Department of Business & Industry, Real Estate Division, has requested that the Nevada Real Estate Commission issue this subpoena in order to compel the production of books, records and other papers.

**YOU ARE HEREBY COMMANDED TO:** Provide all pages of documents listed  
below:

///  
///

000081

///

**Documents Requested:**

1) A copy of the Short Sale Affidavit document, signed by seller, for address 11480 Cervino Drive, Reno, Nevada 89521. COE: 12/27/2013. Loan # 0050478122. Seller: Stephanie Tobey as submitted by Krch Realty Reno, Nevada; and,

2) A copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing Your Home Via Short Sale, signed by seller for address 11480 Cervino Drive, Reno, Nevada 89521. COE: 12/27/2013. Loan # 0050478122. Seller: Stephanie Tobey as submitted by Krch Realty Reno, Nevada

Your failure to comply with this subpoena within twenty (20) days after the date of service could result in sanctions which may be imposed by a District Court for the State of Nevada under the provisions of NRS 645.720.

EXECUTED this 18 day of Feb, 2016.

NEVADA REAL ESTATE COMMISSION

By:   
Commissioner

**Issued at the request of:**

Linda Chavez,  
Compliance Audit Investigator  
State of Nevada  
Department of Business & Industry  
Real Estate Division  
2501 E. Sahara Avenue, Suite 300  
Las Vegas, Nevada 89104  
Phone No. (702) 486-4518

000082



March 2, 2016

RECEIVED

MAR 07 2016

State of Nevada Dept. of Business & Industry  
Attn: Linda Chavez – Compliance Audit Investigator  
Real Estate Division  
2501 E Sahara Ave, Suite 300  
Las Vegas, NV 89104

Dept of Business & Industry  
Real Estate Division-LV

Re: Subpoena – Stephanie Tobey  
Case Nos.: 2016-646 & 2016-647

Dear Sir or Madam:

This letter is to establish the fact that:

1. That the copies of the records that are being produced were made from original microfilm/microfiche records of the bank and that they are an exact reproduction of those original records of the bank.
2. That the records are kept in the ordinary course of business of the bank and that it is the business of the bank to keep such records and the records record the event contemporaneous with its occurrence.
3. That the bank has made a thorough search of all its records and the records being produced are the only records in connection with the items being sought in the attached subpoena.

*There were no signed copies of the Short Sale Affidavit.*

I declare under penalty of perjury that the foregoing is true and correct.

Thank you and if you have further questions regarding the information supplied please contact me at 716-635-7698.

Very truly yours,

Melissa Weixlmann  
Legal Document Analyst II  
Legal Document Processing

000083

BEFORE THE NEVADA REAL ESTATE COMMISSION  
STATE OF NEVADA

JOSEPH DECKER, Administrator  
REAL ESTATE DIVISION,  
DEPT. OF BUSINESS & INDUSTRY,  
In Re: Request for records pursuant to  
NRS 645.610, NRS 645.700 & NRS 645.720

Petitioner,

M & T Bank,  
Respondent.

SUBPOENA TO  
OBTAIN RECORDS

CASE NOS: 2016-646 & 2016-647

TO: M & T Bank  
Legal Document Processing  
P.O. Box 844  
Buffalo, NY. 14240

SUBPOENA TO OBTAIN RECORDS

THE NEVADA REAL ESTATE COMMISSION SENDS GREETINGS TO:

M & T Bank  
Legal Document Processing  
P.O. Box 844  
Buffalo, NY. 14240

M&T BANK  
LEGAL DOC. PROCESSING  
2016 FEB 22 AM 11:36

Under the provisions of NRS 645.610 the Administrator of the Nevada Real Estate Division may investigate the actions of any real estate broker, broker-salesperson, salesperson, owner-developer or any person who acts in any such capacity within this State

Under the provisions of NRS 645.720 the State of Nevada, Department of Business & Industry, Real Estate Division, has requested that the Nevada Real Estate Commission issue this subpoena in order to compel the production of books, records and other papers.

**YOU ARE HEREBY COMMANDED TO:** Provide all pages of documents listed  
below:

////  
////



////

**Documents Requested:**

- 1) A copy of the Short Sale Affidavit document, signed by seller, for address 11480 Cervino Drive, Reno, Nevada 89521. COE: 12/27/2013. Loan # 0050478122. Seller: Stephanie Tobey as submitted by Krch Realty Reno, Nevada; and,
- 2) A copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing Your Home Via Short Sale, signed by seller for address 11480 Cervino Drive, Reno, Nevada 89521. COE: 12/27/2013. Loan # 0050478122. Seller: Stephanie Tobey as submitted by Krch Realty Reno, Nevada

Your failure to comply with this subpoena within twenty (20) days after the date of service could result in sanctions which may be imposed by a District Court for the State of Nevada under the provisions of NRS 645.720.

EXECUTED this 18 day of Feb, 2016.

NEVADA REAL ESTATE COMMISSION

By:   
Commissioner

**Issued at the request of:**

Linda Chavez,  
Compliance Audit Investigator  
State of Nevada  
Department of Business & Industry  
Real Estate Division  
2501 E. Sahara Avenue, Suite 300  
Las Vegas, Nevada 89104  
Phone No. (702) 486-4518

000085

RECEIVED

MAR 25 2016

DEPT OF BUSINESS & INDUSTRY  
REAL ESTATE DIVISION  
COMPLAINT OFFICE

BEFORE THE NEVADA REAL ESTATE COMMISSION  
STATE OF NEVADA

JOSEPH DECKER, Administrator  
REAL ESTATE DIVISION,  
DEPT. OF BUSINESS & INDUSTRY,  
RE: Request for records pursuant to  
NRS 645.610, NRS 645.700 & NRS 645.720

CASE NOS. 2016-646 and  
2016-647

Petitioner,

BANK OF AMERICA, N.A.

Respondent.

DECLARATION OF CUSTODIAN OF RECORDS

I, Lakesha Battle, declare as follows:

1. I am an assistant vice president and operations team manager for Bank of America, N.A., as it pertains to the referenced matter and as such am the custodian of records for these purposes.

2. On or about February 18, 2016, Bank of America, N.A., received a Subpoena to Obtain Records calling for the production of the following records:

- a. A copy of Short Sale Purchase Contract Addendum, signed by seller, for address 665 Wall Canyon Drive, Sun City, Nevada. COE: 12/28/2012. Seller: Geraldine Malone. Loan # 22728752 as submitted by Krch Realty Reno, Nevada;1
- b. A copy of Short Sale Real Estate Licensee Certification document(s), signed by seller for address: 665 Wall Canyon Drive, Sun City, Nevada. COE: 12/28/2012. Seller: Geraldine Malone. Loan # 22728752 as submitted by Krch Realty Reno, Nevada; and
- c. A copy of Krch Realty document titled RE: Full Disclosure of the Investor Purchasing Your Home Via Short Sale, signed by seller, for address 665 Wall Drive, Sun City, Nevada. COE: 12/28/2012. Seller: Geraldine Malone. Loan # 22728752 as submitted by Krch Realty Reno, Nevada.

3. I have examined the original of such records and have made a true and exact copy of them and that the reproduction of them attached hereto is true and complete. Please note that there were no documents in Bank of America's records responsive to the third request or entitled "Full Disclosure of the Investor Purchasing Your Home Via Short Sale."

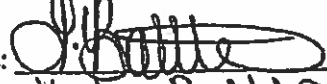
\*\*\*\*\*

000086

1           4. The original of such records were made or kept at or near the time of the acts, events,  
2 conditions or opinions recited therein by or from information transmitted by a person with  
3 knowledge in the course of a regularly conducted activity of the deponent or the office or institution  
4 in which the deponent is engaged.

5           I declare under the penalty of perjury according to the laws of the State of Nevada and the  
6 United States of America that the foregoing is true and correct and that this Declaration is executed  
7 on March 24<sup>th</sup> in Forth Worth, Texas.

BANK OF AMERICA, N.A.

Signature: 

Name: Lakisha Battle

Title: A/R Operations Team Manager

Date: March 24, 2016



JPMorganChase

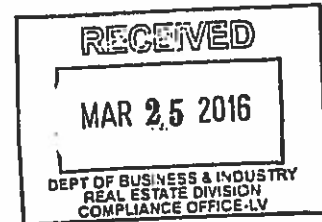


Camilla C Mauzy  
Telephone: (317) 757-7301  
Facsimile: (317) 757-7421

National Subpoena Processing  
Mail Code IN1-4054  
7610 West Washington Street  
Indianapolis, Indiana 46231

3/23/2016

Linda Chavez Compliance Audit Investigator  
Department of Business & Industry  
Real Estate Division  
2501 E. Sahara Avenue, Suite 300  
Las Vegas, Nevada 89104



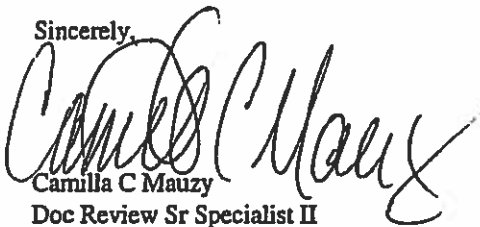
RE: Case Name: Joseph Decker, Administrator Real Estate Division, Dept. Of Business & Industry v JP  
Morgan Chase  
Case No.: 2016-646 & 2016-647  
JPMorgan Chase File No.: SB715166-F1

Dear Linda Chavez Compliance Audit Investigator :

In response to your request, we have enclosed copies of account records regarding the above-referenced matter served upon JPMorgan Chase Bank, N.A. . See attached inventory listing for details.

If you have any questions, please call me at (317) 757-7301.

Sincerely,

  
Camilla C Mauzy  
Doc Review Sr Specialist II

Enclosure

000088

**INVENTORY LISTING**

**CHASE FILE NO.: SB715166-F1**

Customer Name: Deborine Dolan  
Account No.: 00000000001796086726  
Request Type: Mortgage - Affidavit Of "Arms Length Transaction"

Unable to locate additional records responsive to the subpoena and/or request with the information provided.

00^889

**AFFIDAVIT**

**Case No. : 2016-646 & 2016-647**

Camilla C Mauzy , certifies and declares as follows:

1. I am over the age of 18 years and not a party to this action.
2. My business address is 7610 West Washington Street, Indianapolis, Indiana 46231.
3. I am a custodian of records for JPMorgan Chase Bank, N.A. in the National Subpoena Processing Department located in Indianapolis, Indiana.
4. Based on my knowledge of JPMorgan Chase Bank, N.A. 's business records practices and procedures, the enclosed records are a true and correct copy of the original documents kept by JPMorgan Chase Bank, N.A. in the ordinary course of business.
5. Based on my knowledge of JPMorgan Chase Bank, N.A. 's business records practices and procedures, the records were made at or near the time of the occurrence of the matters set forth in the records by, or from information transmitted by, a person with knowledge of those matters.
6. It is the regular practice of JPMorgan Chase Bank, N.A. to make such a record of transactions in the ordinary course of business.

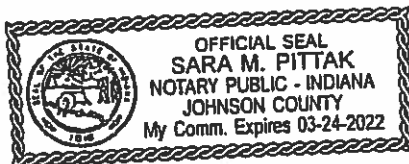
I declare under penalty of perjury, under the laws of the State of Indiana, that the foregoing is true and correct.

Dated: 3.23.2016

By: \_\_\_\_\_

Camilla C Mauzy  
Doc Review Sr Specialist II  
NATIONAL SUBPOENA PROCESSING

Sworn to before me this 23 day of MARCH, 2016



\_\_\_\_\_  
Notary Public

3-24-2022  
Commission Expires

# **EXHIBIT 2**

# **EXHIBIT 2**

REDACTED

## Short Sale Purchase Contract Addendum

Dated: 9/28/12Bank of America 1<sup>st</sup> Loan No.: [REDACTED]Bank of America 2<sup>nd</sup> Loan No.: \_\_\_\_\_Seller: Geraldine MajorsBuyer: Shayla Gifford

Print name

Print name

Seller: \_\_\_\_\_

Buyer: \_\_\_\_\_

Print name

Print name

Seller: \_\_\_\_\_

Buyer: \_\_\_\_\_

Print name

Print name

Seller: \_\_\_\_\_

Buyer: \_\_\_\_\_

Print name

Print name

This Addendum to Purchase Contract is entered into and is effective as of 10/8/12 by and between Seller(s) and Buyer(s) (hereinafter referred to as "the Parties") and shall be deemed to amend, modify and supplement that certain Contract dated 10/8/12 by and between Seller(s) and Buyer(s) (the "Purchase Contract").

NOW, THEREFORE, in consideration of the mutual benefits to be derived from this Short Sale Purchase Contract Addendum and of the representations, warranties, conditions and promises hereinafter acknowledged, Sellers and Buyers hereby agree as follows:

1. The Parties acknowledge and agree that the Subject Property is being sold in "as is" condition.
2. The parties acknowledge and agree that the Seller may cancel this agreement prior to the ending date of the contract period without advance notice to the broker and without payment of a commission of any other consideration, if the property is conveyed via foreclosure to the mortgage insurer or the mortgage holder.
3. The Parties acknowledge and agree that the Subject Property must be sold through an "Arm's-Length" Transaction. "Arm's length" means two unrelated parties characterized by a selling price and other terms and conditions that would prevail in a typical real estate sales transaction. No party to this contract is a family member, related by blood or marriage, business associate or shares a business interest with the mortgagor (Sellers).
4. The Parties acknowledge and agree that neither the Buyers nor the Sellers nor their respective Brokers/Agents have any agreements written or oral that will permit the Seller or the Seller's family member to remain in the property as renters or regain ownership of said property at any time after the execution of the Short Sale transaction. This includes if the seller is retaining a direct or indirect ownership or possessory interest in the property and/or has a formal or informal option to obtain such an interest in the future.
5. Seller agrees to vacate the subject property within 3 days PRIOR TO closing of the transaction OR Seller agrees to vacate the subject property within 2 days after closing subject to terms as shown on the Purchase Contract.
6. The Parties acknowledge and agree that none of the parties shall receive any proceeds from this transaction.
7. The Parties acknowledge and agree the purchase contract cannot have any provisions for Assignment/Assignee and/or Option to purchase. Bank of America will NOT approve any transactions with these sales contract provisions and any such provisions are expressly deemed unapproved.
8. Buyer agrees that property cannot be sold or otherwise transferred within 30 days of closing.

000013



## Short Sale Purchase Contract Addendum

9. The Parties acknowledge and agree that, upon Bank of America's request, the Parties shall provide all material documents involved in the short payoff transaction, including but not limited to the Buyer(s)' and Seller(s)' HUD-1 Settlement Statements.
10. The Parties acknowledge and agree that this Short Sale transaction will not constitute appraisal fraud, flipping, identity theft and/or straw buying.
11. The Parties acknowledge and agree that any misrepresentation or deliberate omission of fact that would induce the Bank of America, Investor or a Mortgage Insurer to agree to the terms of a short payoff that would not have been approved had all facts been known, constitutes Short Sale Fraud and may subject the responsible Party to civil and/or criminal liability.
12. The Parties acknowledge and agree that this Addendum together, with the Sales Contract, shall constitute the entire and sole agreement between the Parties with respect to the Sale of the Subject property and supersede any prior agreements, negotiations, understandings, optional contracts or other matters, whether oral or written, with respect to the subject matter hereof. To the extent that any term or condition contained within the Short Sale Contract is contradictory or inconsistent with this Addendum, the Parties agree that this Addendum shall supersede. No alterations, modifications or waiver of any provision hereof shall be valid unless in writing and signed by Parties, FHA, VA, government agencies, any investor and/or mortgage holder hereto.

IN WITNESS WHEREOF, the parties hereby have acknowledged the terms and conditions contained in this Addendum as evidenced by the signatures appearing below:

Seller: Beraldine Malone  
Sign name

Buyer: [Signature]  
Sign name

Seller: \_\_\_\_\_  
Sign name

Buyer: \_\_\_\_\_  
Sign name

Seller: \_\_\_\_\_  
Sign name

Buyer: \_\_\_\_\_  
Sign name

Seller: \_\_\_\_\_  
Sign name

Buyer: \_\_\_\_\_  
Sign name

## Short Sale Real Estate Licensee Certification

This certification is made in connection with the Residential Purchase Agreement dated 10-8-12  
 on Property known as 665 Wall Canyon Dr, Sun Valley, NV 89433  
 for which Geraldine Malone is Seller and Kyle Kroh  
 is the individual Real Estate Licensee at the listing brokerage representing Seller; and  
Shayla Gifford is Buyer and Mike Harding  
 is the individual Real Estate Licensee at the selling brokerage representing Buyer.

1. Licensee acknowledges and agrees that Bank of America is not the property seller, but only the mortgage lien holder(s) or servicer acting on behalf of the lien holder, accepting less than the balance owed to facilitate the Short Sale purchase transaction of Property as an alternative to foreclosure. Bank of America is in no way responsible for paying any real estate sales commission.
2. Licensee acknowledges and agrees that he or she has a valid, current real estate license issued by the appropriate authority within the State that Property is listed for sale or a licensed attorney in good standing in the State where Property is listed for sale.
3. Licensee representing Seller acknowledges and agrees that, in his or her professional opinion, Property has been listed on the appropriate local Multiple Listing Service at a listing price intended to generate open market competitive offers to purchase Property and not at an artificially low or high listing price. Licensee representing Seller further acknowledges and agrees that his or her marketing efforts were in fact and "in spirit" aimed toward maximizing the selling price of Property from a ready, willing and able buyer. Licensee has not engaged in any conduct that restricts or limits offers from buyers, including but not limited to requiring cash offers, using disparaging language regarding the property or tenants, or unreasonably restricting access.
4. Licensee representing Seller acknowledges that he or she has made Seller aware of all offers to purchase Property that Licensee received during the listing period and that he or she has not coerced, harassed or improperly influenced Seller in selecting a buyer for Property or in agreeing to the terms and conditions of the purchase contract.
5. Licensee acknowledges and agrees that Licensee is not engaging in appraisal fraud, flipping (a predatory lending practice whereby a recently acquired property is resold for a considerable profit with an artificially inflated value within a short period of time, as defined by the Federal Bureau of Investigation), identity theft and/or straw buying. Licensee has disclosed all agreements or understandings relating to the current sale or subsequent sale of Property of which Licensee is aware or should be aware. Licensee is not aware of any other agreements or understandings that call for the subsequent sale of the Property within 30 days of the current sale, the assignment of the property to the Seller or the option for the Seller to purchase.

## Short Sale Real Estate Licensee Certification

6. Licensee acknowledges and agrees that he or she is not receiving any compensation, remuneration or benefit from the completion of this Residential Purchase Agreement other than what has been disclosed in the preliminary and certified HUD-1 closing/settlement statements. Licensee is not aware of any arrangement for compensation or other remuneration to Seller, Buyer, Licensees or other lien holders, either directly or indirectly related to the purchase agreement, that has been or will be paid outside the official terms of closing as presented in the purchase contract and the preliminary and certified HUD-1 closing settlement statements.
7. Licensee acknowledges and agrees that he or she has disclosed to Bank of America any known relationship to Buyer or ownership interest in Buyer's company, and Licensee representing Seller further acknowledges that he or she has no existing business relationship with Buyer and/or Seller other than the purchase of Property according to the terms and conditions of the purchase contract.
8. Licensee acknowledges and agrees that any misrepresentation or omission of a material fact may subject the responsible party to civil and/or criminal liability.

Licensee Representing Seller:

Sign name

State License Number:

50200

Date: 10-9-12

Licensee Representing Buyer:

Sign name

State License Number:

0169701

Date: 10/9/12



# Seller's Waiver of MLS Benefits

Property Address: 665 Wall Canyon Dr, Sun Valley, NV 89433

✓  
Done

## WARNING: UNDERSTAND YOU ARE LIMITING YOUR SALES STRATEGY BY WAIVING YOUR MLS BENEFITS

If withheld from MLS, your property is:

- NOT seen by 2500 local REALTORS
- NOT in automated alerts to buyers
- NOT displayed on broker Websites
- NOT displayed on Realtor.com
- NOT updated on Zillow/Trulia/others
- NOT searchable in Listingbook
- Misses 1000s of potential buyers
- Down Payment Resources NOT identified for your property
- NOT eligible for Fannie Mae Short Sale Assistance Desk

Northern Nevada Regional MLS:

• Covers Reno, Sparks, Carson City, Gardnerville, Fernley, Fallon, Dayton, Yerington, Lake Tahoe and beyond.

• Includes over 323,000 property records.

• Reported more than \$1.8 Billion in residential real estate sales transactions in 2011.

I hereby certify that the brokerage: KELLY REALTY

has fully informed me of the benefits available to me via the broker's association with the NNRMLS and its Multiple Listing Service.

By instructing the broker NOT to publish my property in the MLS, I understand:

a.) My property will not be included with other similar properties when MLS members perform a search for available inventory in my area and price range ym (seller(s) initial),

b.) My property may not be included and will not be automatically updated on national and/or local broker websites ym (seller(s) initial),

c.) I am risking NOT selling my property ym (seller(s) initial),

d.) I risk selling at a lower price than might otherwise be obtained ym (seller(s) initial)

However, as I have insisted upon withholding my property from being submitted to the Multiple Listing Service, I hereby release the broker from any damages I would suffer as a result of this decision ym (seller(s) initial)

I acknowledge the understanding that my broker ☒ IS ☐ IS NOT offering compensation to cooperate with any other real estate agents in the marketing or sale of this property ym (seller(s) initial)

Owner: Soraldine Maline Owner: \_\_\_\_\_ Date: 10/2/12  
signature signature  
Agent: Kyle Krol Date: 10/2/12  
print name  
Agent: \_\_\_\_\_ Date: 10/2/12  
signature  
Broker: \_\_\_\_\_ Date: 10/2/12  
signature

List Date: 10/2/2012 Expiration Date: 4/1/2013 Estimated date for MLS input: 10/4/12

**ALL FIELDS ARE REQUIRED INCLUDING SIGNATURES. A complete and signed copy of this form must be filed with NNRMLS within 48 hours of owner(s) signature(s) on listing. SEND TO: info@nnrmls.com or FAX: 823-8809**

**\*\* Incomplete forms will be returned and will not be considered "received" until resubmitted with complete information. Previously withheld listings are REQUIRED to be input within 48 hours of transaction closing.**

**AFFIDAVIT OF "ARM'S LENGTH TRANSACTION"**

Pursuant to a residential purchase agreement (the "Agreement"), the parties identified below as the "Seller" and the "Buyer," respectively, are involved in a real estate transaction whereby the real property commonly known as 2745 Darcy Crt, Sparks, NV 89436-0000 (the "Property") will be sold by the Seller to the Buyer.

Chase (the "Lender and/or Servicer") owns or is the authorized servicer of a deed or trust of mortgage against the Property. In order to complete the sale of the Property, the Seller and the Buyer have jointly asked the Lender and/or Servicer to discount the total amount owed on the loan secured by the deed of trust or mortgage. The Lender and/or Servicer, in consideration of the representations made below by the Seller, the Buyer, and their respective agents, agrees to accept less than the amount owed to resolve its Loan (pursuant to a separate Agreement between the Lender and/or Servicer and the Seller) on the express condition that the Seller, the Buyer, and their respective agents (including, without limitation, real estate agents, escrow agents, and title agents) each truthfully represents, affirms, and states that, to the best of each signatory's knowledge and belief:

1. The purchase and sale transaction reflected in the Agreement is an "Arm's Length Transaction," meaning that the transaction has been negotiated by unrelated parties, each of whom is acting in his or her own self-interest, and that the sale price is based on fair market value of the Property. With respect to those persons signing this Affidavit as an agent for the Seller, the Buyer, or both, those agents are acting in the best interests of their respective principal(s).
2. No Buyer or agent of the Buyer is a family member or business associate of the Seller, the borrower, or the mortgagor.
3. No Buyer or agent of the Buyer shares a business interest with the Seller, the borrower, or the mortgagor.
4. There are no hidden terms or hidden agreements or special understandings between the Seller and the Buyer or among their respective agents that are not reflected in the Agreement or the escrow instructions associated with this transaction.
5. There is no agreement, whether oral, written, or implied, between the Seller and the Buyer and/or their respective agents that allows the Seller to remain in the Property as a tenant or to regain ownership of the Property at any time after the consummation of this sale transaction.
6. Neither the Seller(s) nor the Buyer(s) will receive any funds or commission from the sale of the Property. The Seller(s) may receive a payment or incentive if it is offered by the Lender and/or Servicer. Any incentive payments will be paid at the time of closing and will be reflected on the HUD-1 Settlement Statement.
7. All amounts to be paid to any party, including holders of other liens on the Property, in connection with the short payoff transaction have been disclosed to and approved by the Lender and/or Servicer and will be reflected on the HUD-1 Settlement Statement.
8. No agent of either the Seller or the Buyer shall receive any proceeds from this transaction except as is reflected in the final estimated closing statement, which shall be provided to the Lender and/or Servicer for approval prior to the close of escrow.
9. All Mortgage Banking employees are prohibited from purchasing homes through a short sale where Chase is the Lender or Servicer. However, JPMorgan Chase employees who are not employed in Mortgage Banking may purchase homes involved in a short sale that secure loans owned or serviced by Chase.

000003

10. Each signatory to this Affidavit expressly acknowledges that the Lender and/or Servicer is relying upon the representation made herein as consideration for discounting the payoff on the Loan, which is secured by a deed of trust or mortgage encumbering the Property.
11. Each signatory to this Affidavit agrees to indemnify Chase and the investor if applicable for any and all losses resulting from any negligent or intentional misrepresentation made in this Affidavit including, but not limited to repayment of the difference between the amount owed on the loan and the discounted payoff amount.
12. Each signatory to this Affidavit expressly acknowledges that any misrepresentation made by him or her may subject him or her to civil liability.
13. This Affidavit will survive the closing of the transaction.

I/We declare under penalty of perjury under the laws of the state of Nevada that all statements made in this Affidavit are true and correct.

Additionally, I/we fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly and willfully make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Buyer 1

JEANNETTE HILARY  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Buyer 3

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Seller 1

DEBORINE J. DUNN  
(Print Name)

[Signature]  
(Signature)

7/17/13  
(Date)

Buyer 2

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Buyer 4

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Seller 2

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

000034

10. Each signatory to this Affidavit expressly acknowledges that the Lender and/or Servicer is relying upon the representation made herein as consideration for discounting the payoff on the Loan, which is secured by a deed of trust or mortgage encumbering the Property.
11. Each signatory to this Affidavit agrees to indemnify Chase and the investor if applicable for any and all losses resulting from any negligent or intentional misrepresentation made in this Affidavit including, but not limited to repayment of the difference between the amount owed on the loan and the discounted payoff amount.
12. Each signatory to this Affidavit expressly acknowledges that any misrepresentation made by him or her may subject him or her to civil liability.
13. This Affidavit will survive the closing of the transaction.

I/We declare under penalty of perjury under the laws of the state of Nevada that all statements made in this Affidavit are true and correct.

Additionally, I/we fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly and willfully make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Buyer 1

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Buyer 3

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Seller 1

✓ Wayne Dahn  
(Print Name)

✓ Wayne Dahn  
(Signature)

✓ July 17, 2013  
(Date)

Buyer 2

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Buyer 4

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Seller 2

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

000035

10. Each signatory to this Affidavit expressly acknowledges that the Lender and/or Servicer is relying upon the representation made herein as consideration for discounting the payoff on the Loan, which is secured by a deed of trust or mortgage encumbering the Property.
11. Each signatory to this Affidavit agrees to indemnify Chase and the investor if applicable for any and all losses resulting from any negligent or intentional misrepresentation made in this Affidavit including, but not limited to repayment of the difference between the amount owed on the loan and the discounted payoff amount.
12. Each signatory to this Affidavit expressly acknowledges that any misrepresentation made by him or her may subject him or her to civil liability.
13. This Affidavit will survive the closing of the transaction.

I/We declare under penalty of perjury under the laws of the state of Nevada that all statements made in this Affidavit are true and correct.

Additionally, I/we fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly and willfully make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Buyer 1

(Print Name)

(Signature)

(Date)

Buyer 3

(Print Name)

(Signature)

(Date)

~~Seller 1~~

*Leanne Hirsch*  
(Print Name)

(Signature)

(Date)

7-23-13

Buyer 2

(Print Name)

(Signature)

(Date)

Buyer 4

(Print Name)

(Signature)

(Date)

Seller 2

(Print Name)

(Signature)

(Date)

000036



## Seller 3

(Print Name)

(Signature)

(Date)

Buyer's Agent

Kyle Kroch

(Print Name)

Kroch Realty

(Print Company)

(Signature and Date) 7/30/13

## Seller 4

(Print Name)

(Signature)

(Date)

Seller's Agent

Kyle Kroch

(Print Name)

Kroch Realty

(Print Company)

(Signature and Date) 7/30/13

This document must be faxed to the number below.

Fax:

866-837-2043

5.2013 CR6402  
LM714

000037



**BAYVIEW™**  
LOAN SERVICING

Bayview Loan Servicing, LLC  
4425 Ponce de Leon Blvd, 5th Floor  
Coral Gables, FL 33146

### SHORT SALE AFFIDAVIT

|   |  |
|---|--|
| <b>Servicer</b><br>M & T Bank                                   | <b>Servicer Loan Number</b><br>0050478122                |
| <b>Address of Property:</b><br>11480 CERVINO DR, RENO, NV 89521 |  |
| <b>Date of Purchase Contract:</b><br>08/30/2013                 | <b>Investor:</b><br><u>Jeannette Hirschy</u>             |
| <b>Seller:</b><br>STEPHANIE TOBEY                               | <b>Buyer:</b><br><u>Jason Jaram</u>                      |
| <b>Seller's Agent (Listing Agent):</b><br><u>Lon Silva</u>      | <b>Buyer's Agent:</b><br>_____                           |
| <b>Escrow Closing Agent:</b><br>_____                           | <b>Transaction Facilitator (if applicable):</b><br>_____ |

This Short Sale Affidavit ("Affidavit") is given by the Seller(s), Buyer(s), Agent(s), and Facilitator to the Servicer and the Investor of the mortgage loan secured by the Property ("Mortgage") in consideration for the mutual and respective benefits to be derived from the short sale of the Property.

NOW, THEREFORE, the Seller(s), Buyer(s), Agent(s), and Facilitator do hereby represent, warrant and agree under the pains and penalties of perjury, to the best of each signatory's knowledge and belief, as follows:

- (a) The sale of the Property is an "arm's length" transaction, between Seller(s) and Buyer(s) who are unrelated and unaffiliated by family, marriage, or commercial enterprise;
- (b) There are no agreements, understandings or contracts between the Seller(s) and Buyer(s) that the Seller(s) will remain in the Property as tenants or later obtain title or ownership of the Property, except that the Seller(s) are permitted to remain as tenants in the Property for a short term, as is common and customary in the market but no longer than ninety (90) days, in order to facilitate relocation;
- (c) Neither the Seller(s) nor the Buyer(s) will receive any funds or commissions from the sale of the Property except that the Seller(s) may receive a payment if it is offered by the Servicer, approved by the Investor and, if the payment is made at closing of the short sale of the Property, reflected on the HUD-1 Settlement Statement;
- (d) There are no agreements, understandings or contracts relating to the current sale or subsequent sale of the Property that have not been disclosed to the Servicer;
- (e) All amounts to be paid to any person or entity, including holders of other liens on the Property, in connection with the short sale have been disclosed to and approved by the Servicer and will be reflected on the HUD-1 Settlement Statement;
- (f) Each signatory understands, agrees and intends that the Servicer and the Investor are relying upon the statements made in this Affidavit as consideration for the reduction of the payoff amount of the Mortgage and agreement to the sale of the Property.
- (g) A signatory who makes a negligent or intentional misrepresentation agrees to indemnify the Servicer and the Investor for any and all loss resulting from the misrepresentation including, but not limited to, repayment of the amount of the reduced payoff of the Mortgage.

- (h) This Affidavit and all representations, warranties and statements made herein will survive the closing of the short sale transaction; and
- (i) Each signatory understands that a misrepresentation may subject the person making the misrepresentation to civil and/or criminal liability.

**SELLER(S):**

By:  Date: 12/17/13  
STEPHANIE R TOBEY (SELLER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(SELLER)

**BUYER(S):**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (BUYER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (BUYER)

**AGENTS):**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (SELLER'S AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (BUYERS AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (ESCROW/CLOSING AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (TRANSACTION FACILITATOR)

Each of the above parties must acknowledge his signature before a notary.

- (h) This Affidavit and all representations, warranties and statements made herein will survive the closing of the short sale transaction; and
- (i) Each signatory understands that a misrepresentation may subject the person making the misrepresentation to civil and/or criminal liability.

SELLER(S):

By: [Signature] Date: 12/17/13  
STEPHANIE R TOBEY (SELLER)



By: \_\_\_\_\_ Date: \_\_\_\_\_  
(SELLER)

BUYER(S):

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (BUYER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (BUYER)

AGENTS:

By: [Signature] Date: 12-18-13  
Name and Company: Kyle Krach - Krach Realty (SELLER'S AGENT)

By: [Signature] Date: 12-18-13  
Name and Company: Kyle Krach - Krach Realty (BUYER'S AGENT)

By: [Signature] Date: 12-18-13  
Name and Company: First American (ESCROW/CLOSING AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (TRANSACTION FACILITATOR)

Each of the above parties must acknowledge his signature before a notary.

- (h) This Affidavit and all representations, warranties and statements made herein will survive the closing of the short sale transaction; and
- (i) Each signatory understands that a misrepresentation may subject the person making the misrepresentation to civil and/or criminal liability.

SELLER(S)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
STEPHANIE R TOBEY (SELLER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(SELLER)

BUYER(S):

By: \_\_\_\_\_ Date: 12-18-13  
Name: Charlotte Hirsch (BUYER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (BUYER)

AGENTS:

By: \_\_\_\_\_ Date: 12-18-13  
Name and Company: Kyle Koch-Koch Realty (SELLER'S AGENT)

By: \_\_\_\_\_ Date: 12-18-13  
Name and Company: Kyle Koch-Koch Realty (BUYER'S AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (ESCROW/CLOSING AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (TRANSACTION FACILITATOR)

Each of the above parties must acknowledge his signature before a notary.

(h) This Affidavit and all representations, warranties and statements made herein will survive the closing of the short sale transaction; and

(i) Each signatory understands that a misrepresentation may subject the person making the misrepresentation to civil and/or criminal liability.

SELLER(S):

By: \_\_\_\_\_ Date: \_\_\_\_\_  
STEPHANIE R TOBEY (SELLER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(SELLER)

BUYER(S):

By: \_\_\_\_\_ Date: 12-18-13  
Name: Esther Hirsch (BUYER)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (BUYER)

AGENTS:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (SELLER'S AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (BUYERS AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (ESCROW/CLOSING AGENT)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Company: \_\_\_\_\_ (TRANSACTION FACILITATOR)

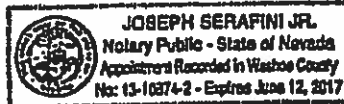
Each of the above parties must acknowledge his signature before a notary.

SELLER NOTARY-ACKNOWLEDGEMENT

STATE OF NEVADA )  
 ) SS  
COUNTY OF WASHOE )

On December 17, 2013, before me, Joseph Serafini JR a notary public for and within the said county, personally appeared, STEPHANIE R TABERY, as the Seller(s), personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) on the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



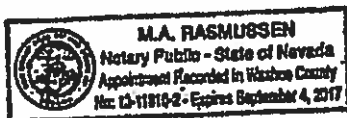
By: [Signature]  
Notary Public: Joseph Serafini JR  
My Commission Expires: 6/12/2017

BUYER NOTARY ACKNOWLEDGEMENT

STATE OF Nevada )  
COUNTY OF Washoe ) SS

On 12/18/13, before me, M.A. Rasmussen a notary  
public for and within the said county, personally appeared, Jeanette Hirsch  
as the Buyer(s), personally known to  
me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed  
to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) on the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



By: [Signature]  
Notary Public: M.A. Rasmussen  
My Commission Expires: 9/4/17



ESCROW/CLOSING AGENT NOTARY ACKNOWLEDGEMENT

STATE OF NV )  
COUNTY OF WASHOE ) SS

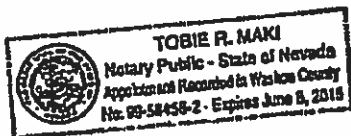
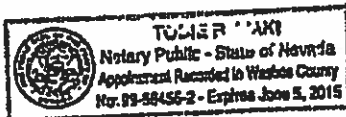
On 12/18/13 before me, TOBIE R MAKI a notary  
public for and within the said county, personally appeared, Lou Silva  
as the Escrow/Closing agent,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name  
(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/  
her/their authorized capacity(ies), and (that by his/her/their signature(s) on the instrument the person(s) on the  
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

By: [Signature]

Notary Public: \_\_\_\_\_

My Commission Expires: 6/5/15



BUYER'S AGENT NOTARY ACKNOWLEDGEMENT

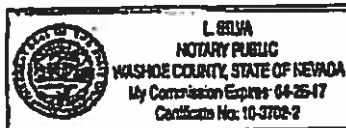
STATE OF NV  
COUNTY OF WASHOE ) SS

On 12/16/13 before me, LS Silva a notary  
public for and within the said county, personally appeared, ICYR K. K. K.

as the buyer's agent, personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) on the entity upon  
behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

By: [Signature]  
Notary Public LS Silva  
My Commission Expires: 4/26/17



SELLER AGENT NOTARY ACKNOWLEDGEMENT

STATE OF NV  
COUNTY OF Washoe ) SS

On 12/18/13 before me, LS Silva a notary  
public for and within the said county, personally appeared, Ralph Erick  
as the seller's agent, personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) on the entity upon  
behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

By: [Signature]  
Notary Public: Notary L Silva  
My Commission Expires: 4/26/17

